

Commissioner for Patents  
Amendment dated September 27, 2004  
Response to Office Action dated June 28, 2004  
Page 6 of 9

Serial No.: 09/864138  
Art Unit: 2157  
Examiner: Najjar  
Docket No.: AUS9 2001 0124 US1

### REMARKS/ARGUMENTS

Claims 1-20 were presented and examined. The Examiner rejected claims 1-20 under 35 USC § 103(a), as being unpatentable over Russell *et al.* (U.S. Patent No. 6,678,746), hereinafter "Russell". In this response, Applicant has amended claims 2, 4, 6, 7, 9, 11, 13, 15-17, 19, and 20, and canceled claims 1, 3, 8, and 14. Claims 2, 5-7, 9-13, and 15-20 remain pending.

#### Claim rejections under 35 USC § 103(a)

The Examiner rejected claims 1-20 under Section 103(a) as being unpatentable over Russell.

In response to the rejection of independent claim 1 and its dependent claims (claims 2-7), Applicant has canceled independent claim 1 and dependent claim 3 and rewritten claim 4 in independent form incorporating the limitations of the base claim (claim 1) and the intervening claim (claim 3).

Applicant traverses the rejection of claim 4 because the cited reference does not disclose or suggest all of the claim limitations. Specifically, Russell does not disclose or suggest parsing a network packet into a network portion and a data portion where the data portion includes the packet's application layer header. Russell teaches that a packet (14) consists of a packet header (16) and packet data (18). See, Russell, FIG. 2. Russell then describes a packet parser (30) that "directs the packet header portion of information packet 14 to [a first resource] for header processing and directs the packet data portion of information packet 14 to [another resource] for data processing." See, Russell, col. 4 lines 19-26.

Russell's description of the packet header does not exclude the application layer header and there is no teaching or suggestion in Russell to include any portion of the packet header with any portion of the packet data. Russell describes the packet header 16 as including "a number of fields that describe the contents of information packet 14, including a destination address field, a source address field, and a length/type field." Russell goes on to say that the length/type field may identify the type of network protocol used to format the associated information packet. This description encompasses the application layer header which identifies a network protocol (HTTP, for example) used to format the associated packet.

*Commissioner for Patents  
Amendment dated September 27, 2004  
Response to Office Action dated June 28, 2004  
Page 7 of 9*

*Serial No.: 09/864138  
Art Unit: 2157  
Examiner: Najjar  
Docket No.: AUS9 2001 0124 US1*

Russell teaches an explicit and unambiguous distinction between packet headers and packet data. The packet headers are processed by a first resource while the packet data is processed by another resource. In contrast, claim 4 recites a first packet portion that includes the packet data and the application layer header and a second packet portion that includes all of the other headers. Processing the application layer header together with the data enables the present invention to beneficially reduce network processing latency by recognizing that the application layer header is functionally more closely related to the packet data than to the lower level packet headers.

In rejecting claim 4, the Office Action states only that columns 4-5 of Russell teach "wherein the data portion comprises the application layer header of the packet and the data." Applicant has reviewed the cited portion of Russell and cannot find any instance of Russell teaching the inclusion of a part of the packet header with the packet data. While Russell does describe breaking the packet header into multiple components and processing each packet header component separately, the packet data is always distinct from any of the packet header components as taught in Russell.

Russell simply does not contemplate processing an application layer portion of the packet header together with the packet data. In fact, Russell does not contain a single reference to a network's application layer or to a packet's application layer header. Nor does the teaching of Russell provide motivation for one to modify Russell to arrive at an invention described by the limitations of claim 4. Under Russell's limited teaching, which is primarily concerned only with the routing and error checking functions of the packet header, there is no motivation to incorporate a portion of the header with the packet data because there is no overlap in functionality between the packet header and the packet data.

Because claim 4 recites limitations neither taught nor suggested by the cited reference, Applicant would respectfully request the Examiner to reconsider and withdraw the rejection of claim 4 and its dependent claims (2, and 5-7).

With respect to the rejections of independent claims 8 and 14, Applicant has deleted the originally submitted independent claims and rewritten dependent claims 11 and 17 in independent form to incorporate the limitations of originally submitted claims 8 and 14 (now canceled) respectively. Because claims 11 and 17 both include a limitation by which the the

*Commissioner for Patents*

*Amendment dated September 27, 2004*

*Response to Office Action dated June 28, 2004*

*Page 8 of 9*

*Serial No.: 09/864138*

*Art Unit: 2157*

*Examiner: Najjar*

*Docket No.: AUS9 2001 0124 US1*

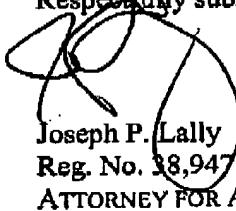
application layer header is processed with the packet data, Applicant would submit that claims 11 and 17 recite matter not taught or suggested by Russell for substantially the same reasons that claim 4 as amended is believed to recite allowable subject matter. Accordingly, Applicant would respectfully request the Examiner to reconsider and withdraw the rejections of claims 11 and 17 as amended and their respective dependent claims (claims 9, 10, 12, and 13 for claim 11 and claims 15, 16, and 18-20 for claim 17).

*Commissioner for Patents  
Amendment dated September 27, 2004  
Response to Office Action dated June 28, 2004  
Page 9 of 9*

*Serial No.: 09/864138  
Art Unit: 2157  
Examiner: Najjar  
Docket No.: AUS9 2001 0124 US1*

In this response, Applicant has addressed the Examiner's objections, claim rejections under 35 USC § 103(a). Accordingly, Applicant believes that this response constitutes a complete response to each of the issues raised in the office action. In light of the amendments made herein and the accompanying remarks, Applicant believes that the pending claims are in condition for allowance. Accordingly, Applicant would request the Examiner to withdraw the rejections, allow the pending claims, and advance the application to issue. If the Examiner has any questions, comments, or suggestions, the undersigned attorney would welcome and encourage a telephone conference at 512.428.9872.

Respectfully submitted,

  
Joseph P. Lally  
Reg. No. 38,947  
ATTORNEY FOR APPLICANT(S)

LALLY & LALLY, L.L.P.  
P.O. Box 684749  
Austin, Texas 78768-4749  
512.428.9870  
512.428.9871 (FAX)

JPL/mmm